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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/663,513	09/15/2000	Douglas L. Welk	DP-303031	2784

7590

04/24/2003

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EXAMINER

TRAN, TUAN A

ART UNIT

PAPER NUMBER

2682

DATE MAILED: 04/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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# Office Action Summary

Application No.

09/663,513

Applicant(s)

WELK ET AL.

Examiner

Tuan A Tran

Art Unit

2684

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Objections*

Claim 11 is objected to because of the following informalities: claim 11 cites, "the method of claim 11...", the Examiner assumed claim 11 cites the method of independent claim 8. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Hejna, Jr. (2002/0013949).

Regarding claim 1, Hejna discloses a method for enhancing in real-time the playback of a broadcast signal, comprising the steps: receiving a broadcast data signal at a player device; storing the broadcast data signal on the player device; generating an output signal based on the broadcast data signal substantially simultaneous to the

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storage of the broadcast data signal (See fig. 2 and page. 2-0033 to page. 3-0034); creating a time delay between the storage of the broadcast data signal and the generation of the output signal (See fig. 2 and page. 3-0035); and adjusting the time delay between the storage of the broadcast data signal and the generation of the output signal, thereby manipulating the output signal from the player device (See figs. 2, 4 and page. 3-0037).

Regarding claims 2-3, Hejna further discloses the step of adjusting the time delay comprises maintaining the storage of the broadcast data signal within a predefined limit of the output signal that correlates to the broadcast data signal and synchronizing the storage of the broadcast data signal with the generation of the output signal, such that a portion of the broadcast data signal is not output by the player device (See fig. 2 and page. 3-0034).

Regarding claims 4-5, Hejna further discloses the broadcast data signal is further defined as an audio signal having audio portion and at least one non-audible portion (See figs. 2, 5 and page. 2-0033), comprising the steps of: identifying the non-audible portion of the broadcast data signal prior to generating the output signal (See page. 4-0043); and increasing the duration of the non-audible portion of the broadcast data signal, thereby creating the time delay between the storage of the broadcast signal and the generation of the output signal (See fig. 5 and page. 4-0043) and reducing the time delay between the storage of the broadcast data signal and the generation of the output signal, thereby fast-forwarding through a portion of the broadcast data signal (See fig. 6 and page. 4-0045, page. 20-0156,0159, page. 21-0165).

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Claims 8-9 and 11 are rejected for the same reasons as set forth in claims 4-5.

Regarding claims 6-7, Hejna further discloses the step of creating a time delay further comprises: discontinuing the generation of the output signal; and replaying a portion of the broadcast data signal stored on the player device (See page. 10-0089).

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Claims 10 and 12 are rejected for the same reasons as set forth in claims 6-7.

2. Claim 13 is rejected under 35 U.S.C. 102(b) as being anticipated by Camhi et al. (5,930,444).

Regarding claim 13, Camhi discloses a player device 10 for enhancing in real-time the playback of an audio broadcast (See fig. 1), comprising: a tuner 26 for receiving a broadcast data; a storage medium 12 for storing the broadcast data signal; inherently a speaker for generating audio output that correlates to the broadcast data signal; and a controller 14 connected with the tuner, the storage medium and the speaker, wherein the controller is operative to create and adjust a time delay between the storing of the broadcast data signal and the generating of the audio output, thereby enhancing the playback of the audio broadcast (See figs. 1, 5 and col. 3 line 54 to col. 5 line 36, col. 6 lines 24-49).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Goldwasser et al. (5,241,428) discloses variable-delay video recorder.

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- O'Connor (6,480,667) discloses method of time shifting to simultaneously record and play a data stream.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Tuan Tran** whose telephone number is **(703) 605-4255**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Vivian Chin**, can be reached at **(703) 308-6739**.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

**(703) 872-9314 (for Technology Center 2600 only)**

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

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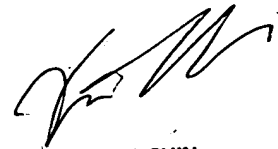
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4/21/03